



BILLING CODE 4510-29-P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Prohibited Transaction Class Exemption 1998-54 Relating to Certain Employee Benefit Plan Foreign Exchange Transactions Executed Pursuant to Standing Instructions

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting the Employee Benefits Security Administration (EBSA) sponsored information collection request (ICR) titled, “Prohibited Transaction Class Exemption 1998-54 Relating to Certain Employee Benefit Plan Foreign Exchange Transactions Executed Pursuant to Standing Instructions,” to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before **[INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201707-1210-001 (this link

will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202-693-4129, TTY 202-693-8064, (these are not toll-free numbers) or by email at DOL_PRA_PUBLIC@dol.gov.

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL-EBSA, Office of Management and Budget, Room 10235, 725 17th Street, N.W., Washington, DC 20503; by Fax: 202-395-5806 (this is not a toll-free number); or by email: OIRA_submission@omb.eop.gov.

Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue, N.W., Washington, D.C. 20210; or by email: DOL_PRA_PUBLIC@dol.gov.

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202-693-4129, TTY 202-693-8064, (these are not toll-free numbers) or by email at DOL_PRA_PUBLIC@dol.gov.

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the information collection requirements contained in Prohibited Transaction Class Exemption (PTE) 1998-54 that relates to certain employee benefit plan foreign exchange transactions executed pursuant to standing instructions. More specifically, the PTE permits certain foreign exchange transactions between employee benefit plans and certain banks and broker-dealers that are parties in interest with respect to such plans. In order that such transactions be consistent with Employee Retirement Income Security Act (ERISA) section 408(a), 29 U.S.C. 1108/(a), requirements, the PTE imposes the

following conditions at the time the foreign exchange transaction is entered into: (a) the terms of the transaction must not be less favorable than those available in comparable arm's-length transactions between unrelated parties or those afforded by the bank or the broker-dealer in comparable arm's-length transactions involving unrelated parties; (b) neither the bank nor the broker-dealer has any discretionary authority with respect to the investment of the assets involved in the transaction; (c) the bank or broker-dealer maintains at all times written policies and procedures regarding the handling of foreign exchange transactions for plans for which it is a party in interest which ensure that the party acting for the bank or the broker-dealer knows it is dealing with a plan; (d) the transactions are performed in accordance with a written authorization executed in advance by an independent fiduciary of the plan whose assets are involved in the transaction and who is independent of the bank or broker-dealer engaging in the covered transaction; (e) transactions are executed within one business day of receipt of funds; (f) the bank or the broker-dealer, at least once a day at a time specified in written procedures, establishes a rate or range of rates of exchange to be used for the transactions covered by this exemption and executes transactions at either the next scheduled time or no later than twenty-four (24) hours after receipt of notice of receipt of funds; (g) prior to execution of a transaction, the bank or the broker-dealer provides the authorizing fiduciary with a copy of the applicable written policies and procedures for foreign exchange transactions involving income item conversions and *de minimis* purchases and sale transactions; (h) the bank or the broker-dealer furnishes the authorizing fiduciary a written confirmation statement with respect to each covered transaction within five (5) days of execution; (i) the bank or the broker-dealer maintains records necessary for plan fiduciaries,

participants, and the DOL and Internal Revenue Service to determine whether the conditions of the exemption have been met for a period of six years from the date of execution of a transaction. Internal Revenue Code of 1986 section 4975 and ERISA section 408 authorize this information collection. *See* 26 U.S.C. 4975; 29 U.S.C. 1108.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1210-0111.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on September 30, 2017. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the *Federal Register* on May 22, 2017 (82 FR 23303).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the ADDRESSES section within thirty (30) days of publication of this notice in the *Federal Register*. In order to help ensure

appropriate consideration, comments should mention OMB Control Number 1210-0111.

The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL-EBSA.

Title of Collection: Prohibited Transaction Class Exemption 1998-54 Relating to Certain Employee Benefit Plan Foreign Exchange Transactions Executed Pursuant to Standing Instructions.

OMB Control Number: 1210-0111.

Affected Public: Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 35.

Total Estimated Number of Responses: 420,000.

Total Estimated Annual Time Burden: 4,200 hours.

Total Estimated Annual Other Costs Burden: \$0.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: September 15, 2017.

Michel Smyth,

Departmental Clearance Officer.

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